

REMARKS

Pending Claims 1-10 and 13-26 have been rejected. Claims 11 and 12 have been canceled, without prejudice. Applicant respectfully traverses the final rejection for the reasons provided below, and respectfully requests an interview with the Examiner to discuss this case. An inventor declaration is also attached describing field tests performed which shed further light on the claim terms "rapidly" and "quickly."

The headings in the Office Action mailed June 4, 2007 are maintained here to expedite the Examiner's review.

Information Disclosure Statement

Applicant has concluded that there is no need to provide any further printout of the web page as the devices shown there (e.g., frame forks) are notoriously well known in the art.

Drawings

1. Claim 21 has been amended to recite "frame fork holders." These are well known and are shown in FIGURE 12. (*See also* the 7/26/06 Craze Application, Tab 3, previously submitted.)

2.-3. FIGURES 13-16 have been deleted, mooted this objection.

Specification

1.1 FIGURES 13-16 have been deleted, mooted this rejection.

Claim Rejections – 35 USC § 112

The Examiner was correct in assuming that Claim 12 should properly depend from Claim 9, and this claim amendment has been formalized above.

1.1/1.2 The terms “rapidly” (Claims 1, 6, 19 and 22) and “quickly” (Claim 12) have been defined fairly precisely, as bolstered by the attached inventor declaration of Paul Craze demonstrating field tests he conducted which show the differentiation of the present invention from a prior art device, the Jerr-Dan/Weld-Built unit. As shown there, disassembly and replacement with an alternate tow device, a tow bar, took about 1 minute, on average, for a unit according to the present invention (no tools required), and about 22 minutes, on average, for the Jerr-Dan/Weld-Built unit (tools required). See 10/29/07 Craze Declaration, ¶ 3.

Specification sheets (clean and redlined) include the definition of the terms “rapidly” and “quickly” added to the specification.

Claim Rejections – 35 USC § 102

The anticipation rejection of Claims 1-6, 8-10, 12-13 and 15-18 is respectfully traversed for the following reasons. Anticipation under §102 means lack of novelty, and is a question of fact. *Brown v. 3M*, 265 F.3d 1349, 1359 (Fed. Cir. 2001). A patent is anticipated if every limitation is found either expressly or inherently in a single prior art reference. *Id.*

The Examiner quite properly admits that Nolasco “fails to teach rapidly disassembling the wheel lift and replacing it with an alternate towing apparatus” (6/4/07 Office Action, at pages

7-8). The Examiner finds that Peterson teaches this claimed feature (*id.*, at 8), but this is simply not the case. FIGURES 9-10 of Peterson show completely different “wheel lift” and J-hook embodiments, respectively, each using an overhead tow sling. There is no indication in Peterson that the sling/wheel lift apparatus shown in FIGURE 9 may be disassembled at all, let alone that it may be replaced (let alone “rapidly”) with the sling/J-hook apparatus of FIGURE 10, as Mr. Craze explains in his attached Declaration (10/29/07 Craze Declaration, ¶ 2). The Peterson sling adds another layer of complexity to the Peterson device, making it more difficult to disassemble and certainly not enabling rapid field disassembly (*id.*).

Because each of independent Claims 1 and 19 contain the “rapidly disassembling the wheel lift and replacing it with an alternate towing apparatus” language, the Nolasco anticipation rejection is believed obviated.

Claim Rejections – 35 USC § 103

Claims 7, 14, and 19-24 stand rejected as obvious over Nolasco (Claim 14) and Nolasco in light of Kiefer (Claim 7) and Peterson (Claims 19-24). However, these rejections are respectfully traversed for the reasons stated below.

Nolasco

The present invention is believed to be patentably distinguishable from Nolasco because the device in the present application is structurally and functionally/operationally different. Nolasco has no cam lock; rather, a plate 35 is welded to hollow slider arms 16, 17 (Nolasco, col.

6: 1-8). With the instant invention, a cam lock 40 with a rotatable handle 42 and a spring-loaded plunger pin 44, 46 may be used to quickly connect and disconnect the receiver from the cross bar. Nolasco does not elaborate on the coupling mechanisms (Examiner Office Action, 6/4/2007 at page 7, ¶ 1). Nolasco uses a permanent weld that prevents the slider arm receivers from being removed without disassembling the components of the cross bar (*See* Fig. 3). In the instant application slider receivers are not permanently welded (Figs. 2-6). Even if a camlock were used on the Nolasco patent, the crossbar components that are attached to the slider arms would still have to be disassembled (see Nolasco, Figs. 3, 6, 7, 8, & 9). Therefore, not only does the present invention operate differently than Nolasco, it is structurally different as well. The retaining screw of Claim 14 depends on Claim 1 which describes another structural feature distinguishable from Nolasco. Therefore, Claim 14 would not be obvious to a person of ordinary skill in the art, either.

Nolasco and Kiefer

Claim 7 is believed patentable in light of Nolasco and Keifer, and the Examiner's rejection is respectfully traversed for the reasons now presented. Under §103, the invention must be shown to have been obvious by the suggestions of the prior art itself, and without resort to the "roadmap" approach of utilizing the claimed invention. *Henkel Corp. v. Coral, Inc.*, 754 F. Supp. 1280 at 1317 (N.D. Ill. 1990). "One can not use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *Id.*, citing

In Re Fine, 837 F.2d 1071, 1073 (Fed. Cir. 1988). See also *KSR Int'l Co. v. Teleflex, Inc.*, 2007 U.S. LEXIS 4745 (S. Ct. Apr. 30, 2007) (citing with approval *In Re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) that obviousness rejection requires more than “mere conclusory statements” and “articulated reasoning with some rationale underpinning...”). See also *id.*, *40 (noting that needs or problems known “in the field of endeavor...can provide a reason for [obviousness]”).

Examiner cites Kiefer's use of a cam lock to as grounds for rejecting Claim 7 (Figs. 5A and 5B). However, this is an improper combination of references as it utilizes the present invention to inspire such a combination. **In Kiefer, a cam lock is used to adjust the wheel lift up and down relative to the receiver** (Kiefer, col. 5: 23-35). In contrast, the present invention uses a cam lock to quickly remove the receiver from the cross bar. It is not suggested in Keifer to utilize the cam lock in the manner of the present invention. Therefore, claim 7 would not be obvious to a person of ordinary skill in the art.

Nolasco and Peterson

Claims 19-24 are believed patentable, and the Examiner's rejection is respectfully traversed for the reasons presented below.

It would not have been obvious to one of ordinary skill in the art to modify Nolasco with the “detach and replace the step” of Peterson as the Examiner suggests (Office Action, 6/4/2007 at pages 7-8, ¶ 3) because there is no such conversion process disclosed in Peterson or intent that this be done (Peterson, Figs. 9 to 10). See also 10/29/07 Craze Declaration, ¶ 2. Manual loading

wheel lifts with slidable receivers have been known for the past few decades. While so-called “self-loading” or “auto-loading” wheel lifts in which the operator from the cab can cause the wheel lift to move, under cylinder power, and engage the wheels of a car to be towed have been known since the 1980s. However, a self-loader or autoloader capable of quickly decoupling – including the wheel lift quickly decoupled from the cylinders – has not been known until the present invention. Petersen shows a conventional loader with two (2) examples: (1) a sling used with a wheel lift (Fig. 9); and (2) a sling used with a J-hook (Fig.10). As mentioned above, Petersen fails to disclose any conversion process for going from the apparatus shown in Fig. 9 to that of Fig. 10; nor is there any intent that this be accomplished. Therefore, Claims 19-24 are believed to be patentable over Nolasco in light of Peterson.

Secondary Indicia of Nonobviousness

Applicant has presented secondary indicia of non-obviousness through detailed and extensive evidence that Applicant’s invention has been the subject of unauthorized copying by the Nolasco owner, Weldbuilt.¹ This unit was the subject of separate bids made by Weldbuilt, the assignee of the Nolasco patent, to the Port Authority and the Department of Transportation for the City of New York (Craze Declaration 7/26/06 at pages 1-2, ¶ 2). Weldbuilt

¹ The inventor explained that the assignee of the Nolasco patent, Weldbuilt, appropriated and displayed the present invention (Craze Declaration 7/26/06 at pages 1-2, ¶ 2). Mr. Craze was personally familiar with the Weldbuilt device, as Weldbuilt wished to display a unit which was capable of rapid disassembly, and its own design was not. *Id.*

representatives built this unit after viewing vehicle recovery trucks revealing the Craze invention at the Baltimore Show in November 2003, and the Orlando Show in April 2004, as explained in the attached February 25, 2005 letter. *Id.* Accordingly, this copying is relied upon by Applicant as secondary indicia of non-obviousness.

For the foregoing reasons, an allowance of pending claims 1-6, 8-10, 12-13 and 15-18 is respectfully requested as the present invention is not anticipated by Nolasco.

Conclusion

For the foregoing reasons, an allowance of pending claims 1-10 and 12-26 is respectfully requested. If the next written communication is intended to be other than a notice of allowance, Applicant requests that the undersigned be contacted prior to the issuance of such communication.

Respectfully submitted,



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